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10/569,013

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EXAMINER

FIELDS, BENJAMIN S

ART UNIT

PAPER NUMBER

3692

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/569,013	Applicant(s) WHITING ET AL.	
	Examiner BENJAMIN S. FIELDS	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,9,12,14-16,18-22,27,31,34 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,9,12,14-16,18-22,27,31,34 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on __ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. The following is a **FINAL** Office Action in response to the communication received on 20 April 2009. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 are now pending in this application.

Response to Amendments/Status of Claims

2. **Point of Note Regarding the originally asserted Double Patenting Rejection:**

The Examiner notes that there was a typographical error in the original Office Action in that the Double Patenting Rejection is in fact a provisional non-statutory obviousness-type double patenting rejection and not a provisional statutory obviousness-type double patenting rejection.

3. The Examiner acknowledges both Telephonic Interviews and communication held with the Applicants as well as all comments and remarks submitted regarding such.

4. The Examiner removes the originally asserted 35 U.S.C 101 Rejection of Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 in view of the Applicants amendments and remarks regarding such.

5. Applicants Amendment has been acknowledged in that: **NO Claims have been newly cancelled; NO Claims have been newly added; Claims 5, 9, 14, 18, 27, 31, and 36 have been newly amended;** hence, as such, **Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34, and 36-38 are pending within this application.**

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 of **this** instant application conflict with Claims 1-50 of pending Application No. 10/645,778.

37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

7. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 are provisionally rejected as

claiming the same invention as that of the copending Application. This is a provisional non-statutory obviousness-type double patenting rejection since the conflicting claims have not in fact been patented. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same if not very similar inventive concept.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bent et al. (US PG Pub. No. 2006/0212385), [hereinafter Bent] and Jacobsen (US PG Pub. No. 2003/0023529), [hereinafter Jacobsen] in view of Matching Small Banks with Large Muni Deposits, [hereinafter the NPL reference].

Referring to Claim 5: Bent in combination with Jacobsen teach a method for facilitating financial transactions between depositor groups and commercial banks, the method comprising: (a) determining, using a control center with at least one computer, deposit needs of a plurality of depositor groups (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025); (c) notifying, using the control center with

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the at least one computer, commercial banks of the availability of the stable funds source and an amount of funds available in the stable funds source (Bent: Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025); (e) determining, using the control center with the at least one computer, an amount of money collectively needed by the different commercial banks (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025); (f) receiving, using the control center with the at least one computer, account postings from the commercial banks (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025); and (h) allowing, using the control center with the at least one computer, the depositor groups to withdraw funds from the accounts on a demand basis without penalty, wherein determining deposit needs of a plurality of depositor groups includes determining deposit needs of different corporations and wherein aggregating the deposit needs includes aggregating funds from the corporations (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025)(Jacobsen: Abstract; Figures 1-4; Page 1, Paragraph 0006-Page 2, Paragraph 0037).

Bent in combination with Jacobsen, however, does not expressly disclose (b) aggregating, using the control center with the at least one computer, the deposit needs of the depositor groups to provide a stable funds source usable by a plurality of different commercial banks as core deposits; (d) setting, using the control center with the at least one computer, an interest rate to be paid to the depositor groups to a predetermined value based on an interest rate that the commercial banks are willing to pay for the stable funds source and an interest rate the depositor groups expect as a return for use

of funds in the stable funds source; (g) communicating, using the control center with the at least one computer, the interest rate to be paid to the depositor groups and the amount of money collectively needed by the different commercial banks to the depositor groups, receiving deposits, and depositing, using the control center with the at least one computer, funds from the stable funds source in the accounts.

The NPL reference, in a similar environment, discusses (b) aggregating, using the control center with the at least one computer, the deposit needs of the depositor groups to provide a stable funds source usable by a plurality of different commercial banks as core deposits (Pages 2-4); (d) setting, using the control center with the at least one computer, an interest rate to be paid to the depositor groups to a predetermined value based on an interest rate that the commercial banks are willing to pay for the stable funds source and an interest rate the depositor groups expect as a return for use of funds in the stable funds source (Pages 2-4); (g) communicating, using the control center with the at least one computer, the interest rate to be paid to the depositor groups and the amount of money collectively needed by the different commercial banks to the depositor groups, receiving deposits, and depositing, using the control center with the at least one computer, funds from the stable funds source in the accounts (Pages 2-4).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Bent in combination with Jacobsen for money fund banking with multiple banks and/or rates and a method and apparatus for fully insuring large bank deposits with the features of the NPL reference for the purpose of allowing a

bank the ability to report the funds deposited within accounts as core deposits and utilize such funds for additional monetary gain, etc.

Referring to Claim 9: Bent in combination with Jacobsen disclose a method for facilitating financial transactions between depositor groups and commercial banks, the method comprising: (a) determining, using a control center with at least one computer, deposit needs of a plurality of depositor groups; (c) notifying, using the control center with the at least one computer, commercial banks of the availability of the stable funds source and an amount of funds available in the stable funds source; (e) determining, using the control center with the at least one computer, an amount of money collectively needed by the different commercial banks; (f) receiving, using the control center with the at least one computer, account postings from the commercial banks; and (h) allowing, using the control center with the at least one computer, the depositor groups to withdraw funds from the accounts on a demand basis without penalty, wherein setting the interest rate to be paid to the depositor groups to a predetermined value includes setting the interest rate to a value equal to the interest rate that the commercial banks are willing to pay for the funds (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025) (Jacobsen: Abstract; Figures 1-4; Page 1, Paragraph 0006-Page 2, Paragraph 0037).

Bent in combination with Jacobsen, however, does not expressly disclose (b) aggregating, using the control center with the at least one computer, the deposit needs of the depositor groups to provide a stable funds source usable by a plurality of different commercial banks as core deposits; (d) setting, using the control center with the at least

one computer, an interest rate to be paid to the depositor groups to a predetermined value based on an interest rate that the commercial banks are willing to pay for the stable funds source and an interest rate the depositor groups expect as a return for use of funds in the stable funds source; (g) communicating, using the control center with the at least one computer, the interest rate to be paid to the depositor groups and the amount of money collectively needed by the different commercial banks to the depositor groups, receiving deposits, and depositing, using the control center with the at least one computer, funds from the stable funds source in the accounts.

The NPL reference, in a similar environment, discusses (b) aggregating, using the control center with the at least one computer, the deposit needs of the depositor groups to provide a stable funds source usable by a plurality of different commercial banks as core deposits (Pages 2-4); (d) setting, using the control center with the at least one computer, an interest rate to be paid to the depositor groups to a predetermined value based on an interest rate that the commercial banks are willing to pay for the stable funds source and an interest rate the depositor groups expect as a return for use of funds in the stable funds source (Pages 2-4); (g) communicating, using the control center with the at least one computer, the interest rate to be paid to the depositor groups and the amount of money collectively needed by the different commercial banks to the depositor groups, receiving deposits, and depositing, using the control center with the at least one computer, funds from the stable funds source in the accounts (Pages 2-4).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Bent in combination with Jacobsen for money fund banking with multiple banks and/or rates and a method and apparatus for fully insuring large bank deposits with the features of the NPL reference for the purpose of allowing a bank the ability to report the funds deposited within accounts as core deposits and utilize such funds for additional monetary gain, etc.

Referring to Claim 12: Bent in combination with Jacobsen show a method comprising receiving incoming deposits and withdrawal requests from the depositor groups, satisfying the incoming withdrawal requests using the incoming deposits, and updating account records to change ownership of deposited funds without withdrawing funds from the commercial banks. (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025) (Jacobsen: Abstract; Figures 1-4; Page 1, Paragraph 0006-Page 2, Paragraph 0037).

Referring to Claim 14: Bent in combination with Jacobsen discuss a method wherein depositing funds in the accounts includes depositing funds in excess of a federal deposit insurance limit from a single depositor group in an account of a single commercial bank and providing federal deposit insurance or a collateral for the entire deposit (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025) (Jacobsen: Abstract; Figures 1-4; Page 1, Paragraph 0006-Page 2, Paragraph 0037).

Referring to Claim 15: Bent in combination with Jacobsen show the limitations of Claim 9.

Bent in combination with Jacobsen, however, does not expressly disclose a method wherein the commercial banks report the funds deposited in the accounts as core deposits.

The NPL reference, in a similar environment, discusses a method wherein the commercial banks report the funds deposited in the accounts as core deposits (Pages 2-4).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Bent in combination with Jacobsen for money fund banking with multiple banks and/or rates and a method and apparatus for fully insuring large bank deposits with the features of the NPL reference for the purpose of allowing a bank the ability to report the funds deposited within accounts as core deposits and utilize such funds for additional monetary gain, etc.

Referring to Claim 16: Bent in combination with Jacobsen teach a method wherein the depositor groups comprise pooled depositor groups and wherein the accounts comprise master negotiated order of withdrawal accounts (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025)(Jacobsen: Abstract; Figures 1-4; Page 1, Paragraph 0006-Page 2, Paragraph 0037).

Referring to Claim 18: Bent in combination with Jacobsen disclose a method for facilitating financial transactions between commercial banks and depositors, the method comprising: (a) receiving, using a control center with at least one computer, deposit account postings from a plurality of different commercial banks; (c) determining, using the control center with the at least one computer, an amount of money collectively

needed by the different commercial banks; (d) receiving, using the control center with the at least one computer, account postings from the commercial banks; and (e) matching the deposit need with the deposit account postings in a manner that provides deposit insurance for funds deposited by the depositor (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025) (Jacobsen: Figures 1-4; Page 1, Paragraph 0006-Page 2, Paragraph 0037).

Bent in combination with Jacobsen, however, does not expressly disclose (b) determining, using the control center with the at least one computer, a deposit need of at least one depositor and aggregating, using a control center with at least one computer, the deposit need of the at least one depositor to provide a stable funds source usable by different commercial banks as core deposits.

The NPL reference, in a similar environment, shows (b) determining, using the control center with the at least one computer, a deposit need of at least one depositor and aggregating, using a control center with at least one computer, the deposit need of the at least one depositor to provide a stable funds source usable by different commercial banks as core deposits (Pages 2-4).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Bent in combination with Jacobsen for money fund banking with multiple banks and/or rates and a method and apparatus for fully insuring large bank deposits with the features of the NPL reference for the purpose of allowing a bank the ability to report the funds deposited within accounts as core deposits and utilize such funds for additional monetary gain, etc.

Referring to Claims 19-22: Bent in combination with Jacobsen discuss the limitations of Claim 18.

Claim 19 recites the limitation “the method ... wherein the depositor comprises an individual entity”.

Claim 20 recites the limitation “the method ... wherein the individual entity comprises a human being”.

Claim 21 recites the limitation “the method ... wherein the individual entity comprises a corporation”.

Claim 22 recites the limitation “the method ... wherein matching the deposit need with the deposit account posting includes auctioning available deposits to the commercial banks”.

The Examiner notes that the limitations within Claims 19-22 are signified only as nonfunctional descriptive material and do not alter how the method operates. Thus, this descriptive material does not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Referring to Claims 27, 31, 34, and 36-38: Claims 27, 31, 34, and 36-38 are directed towards a computer program product for Claims 5, 9, 12, 14-16, and 18. As such, Claims 27, 31, 34, and 36-38 are rejected under the same basis as are Claims 5, 9, 12, 14-16 and 18 as mentioned supra.

Response to Arguments

10. Applicants arguments filed 20 April 2009 have been fully considered but have been found to be **moot** and **non-persuasive** in view of the **new grounds of rejection**.

Examiner Note

11. **The Examiner has pointed out particular reference(s) contained in the prior art of** record within the body of this action for convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. **Applicant**, in preparing the response, should **fully consider the entire reference** as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Conclusion

12. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to BENJAMIN S. FIELDS at telephone number 571.272.9734. The examiner can normally be reached MONDAY THRU FRI between the hours of 9AM and 7PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMBIZ ABDI can be reached at 571.272.6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin S. Fields

22 May 2009

/Harish T Dass/

Primary Examiner, Art Unit 3692